

Exhibit A

U.S. v. Jay Miller
CR 07-00638 DLJ

Character Reference for Jay Miller

Being Jay's only sister, I think I can say I know Jay Miller better than anyone in this world. For 33 years, I have looked up to my big brother with respect, admiration and love. While there is no excuse for the crime he has committed, other than a severe misjudgment, he has learned from his mistakes and wants a new start in life.

Speaking of life, let me paint the picture of a severely dysfunctional family in which we grew up. Being the little sister, I was sheltered from a lot of the appalling actions of my parents, but Jay was not. I could write pages and pages of unethical situations, but its all in the past and I have moved on, and luckily erased those memories from my mind and my life and honestly, don't want to go back there.

All I can say, is that Jay had no positive role model in a father, a really bad man that provided one thing for us, financial comfort. That was all. There was no baseball toss in the back yard for either of us. There was no parental support from our parents at our sporting events. Other kids had their parents cheering them on. We did not. We took taxi cabs around town to our friends houses, because our parents were not around to drive us anywhere, they were not around to parent at all. We raised ourselves, the best we could. With no direction or rules to follow. We were clothed and sheltered, but fended for ourselves to learn right from wrong.

Our mother was no better, she had her own demons. She was only 16 years old when she had Jay, and came from a very abusive childhood. My memories of her include her screaming, hitting, beating and berating us. There were no hugs, no affections, no attention.

When my mother left and moved across the world to Australia, I don't think either Jay or I were sad about it. We knew Dad would buy us what we wanted and we would continue life as usual, just less violent.

Jay is an exceptionally smart individual. We used to joke around when we were kids that he would own a big business and I would come work for him. He was always an entrepreneur. He did have many successful businesses in his life, and at a very early age. He was an excellent role model for me. He graduated a year early from high school, to escape to college and get out of the house. Good for him. I did the same thing, when I had an opportunity to.

Jay is not the first kid to come out of a dysfunctional family, so I am not looking for pity. I am looking for you to give him another chance. He has so much potential. He can and will lead a successful life, if given another chance. He has made some poor decisions, drugs have not helped. Now that he is no longer addicted to drugs, he can turn his life around. I am going to make sure of it. Because now, I am the positive role model for him. It's heart breaking for me to see my big brother, the superhero in my eyes in such a bad situation. I want to help him turn his life around and be the best man he can be.

I have a very stable, boring life. I am a commercial loan officer at a bank, as well as a licensed realtor. I am a mother of a beautiful 10 year old daughter. I am a homeowner. I volunteer in my community about 20 hours a month. I am in Rotary, Lions Club, a Take Stock in Children Mentor, a basketball coach, Softball coach, cheerleading coach, member of the chamber of commerce, recently elected to the District Advisory Committee for the Tourist Development Council and a member of the Business Professional Women's Club. I have no criminal record, never been arrested. I don't do drugs and hardly ever drink. I can and will provide a stable environment for Jay to live and start his life over.

Thank you for your time.


Jennifer Miller
305-240-0592

Exhibit B

U.S. v. Jay Miller
CR 07-00638 DLJ



"Aaron S. Pava"
<aaron@pava.com>
12/15/2007 07:27 PM

To joyce_leavitt@fd.org
cc Aaron Pava <aaron@pava.com>
bcc

Subject Jay Miller - Character Reference

To whom it may concern,

I am writing this letter in support of Jay Miller, a good friend of mine whom I've known for many years.

Jay and I have been friends since we met in 2000, and we lived together as roommates as well.

Throughout our friendship, Jay has always been someone who I could count on 100%. From supporting me financially when I lost my job, to giving me a place to crash (and later live), I have always known Jay as the type of person who would always be there for me - and many others in our extended community.

When I started my company, CivicActions, Jay offered his years of "dot com" experience as support, in dozens of late-night conversations, and he is clearly one of the reasons my business has grown from it's humble beginnings to now exceeding 30 people.

Over the last year or so, we began to spend considerably less time together as Jay was busy being an entrepreneur himself and living his dream building a restaurant business. I couldn't have been more proud to see Jay doing so well! (I have known and seen his occasional bipolar symptoms derail his success, and in my eyes he was clearly on the right path with this new venture!)

My understanding, although I never was much witness to it, was that Jay had recently shaken some demons and gave up drugs. He shared with me he was also seeing a therapist/psychiatrist to help manage his depression and bipolar issues - which he considered was contributing to his new success. I couldn't have been more shocked to hear that Jay was in trouble as the last I heard he was making such great strides...

It is my humble request that you take this letter in consideration in regards to my dear friend and give him the opportunity once again to shine as I know he will!

Kind regards,
Aaron Pava

Exhibit C

U.S. v. Jay Miller
CR 07-00638 DLJ



Richard Goldstein
<richardg@aretecenter.com>
09/27/2007 08:24 AM

To joyce_leavitt@fd.org
cc
bcc

Subject Jay Miller

History:

✉ This message has been replied to.

To whom it may concern,

I have recently learned of the impending sentencing of Jay Miller, and understand that he currently faces significant prison time.

This is shocking for me to hear, because I know Jay to be a person who has a positive impact on people's lives. The reason I know this, is that Jay took a stand for me, and helped me change the course of my life back in February 2003.

At that time, by objective standards I was already very successful. I was working very hard as a patent attorney, putting a lot of energy into growing my practice. I was also, however, spending a great deal of energy, keeping up appearances and pretending to others that I was happy and I had it all together. By chance Jay and I were introduced by a common friend when I was in San Francisco. I remember Jay saying to me, "Rich, I think you are a great guy, and I see how in certain areas of your life things don't seem work for you". He then went out of his way to compassionately lend me support and also introduce me to someone who has really helped me to deeply understand myself, and how I have stood in the way of my own happiness for my entire life. Today, I am happily married, have a beautiful 14 month old son, and deeply enjoy and appreciate my life and my family. I also now run an organization that helps people to discover their own blocks to happiness, freedom, full self-expression, making a difference with others, and living authentically.

It took a really deep human being to see the suffering that Jay saw in me, and to intuitively know what I needed. I have since met several people that tell similar stories about Jay, how he went out of his way to help them.

I understand that you have considerable discretion in this case regarding Jay's sentence. I hope that you see the depth of the character of the man that stands before you and agree that a lengthy prison sentence is not in anyone's best interests. I believe what would be most appropriate is to give him the opportunity to seek the

help that he has so clearly earned through helping others.

Thank you for your consideration.

Very Truly,

Richard W. Goldstein

Exhibit D

U.S. v. Jay Miller
CR 07-00638 DLJ



james citron
<james_flux@yahoo.com>

09/26/2007 05:15 PM

To joyce_leavitt@fd.org

cc

bcc

Subject Jay Miller: A Positive Character Reference...

hi Joyce --

i received a letter from Jay dated 9/20, in which he requested that i send you a character reference.

i have known Jay since early 1999. everything that i've seen him do has been in the spirit of generosity....:

- 1) he let me stay for free in his warehouse for 5 months when i had no money because i was between jobs...
- 2) he has spent much quality time with his son Simeon, as well as supporting both he and Jemima...
- 3) he would regularly pay the Bay Bridge Toll for 10 drivers behind him, at least once every 2 weeks...
- 4) he would choose at least a few homeless people each year, and help them get off the streets by getting them a hotel room, connecting them with various social services and medical professionals and generally talking with them and helping them to address their various issues...some of these people stayed off of the streets for at least a year...
- 5) he often bought me -- and all of his friends -- dinner with no expectations of anything in return...
- 6) he donated alot of time and energy to helping produce techno parties where a portion of the profits often went to various charities...
- 7) he employed people -- friends of friends -- who might otherwise have a hard time finding a job, and thereby helped them to get back on their feet financially...
- 8) he was working on becoming a better photographer and writer as well, nurturing the creative side of his soul, and sharing those efforts with his friends...

as long as i've known him, he truly has practiced "random kindness and senseless acts of beauty"...

all told i feel that Jay is an upstanding member of society, as well as being a highly intelligent, creative, sensitive, and compassionate individual...

i truly hope that that our justice system treats him with the leniency that he so well deserves...

thanks,

James Citron

Exhibit E

U.S. v. Jay Miller
CR 07-00638 DLJ



Stacy
<aperson1111@yahoo.com>
09/23/2007 08:21 AM

To Joyce_Leavitt@fd.org
cc
bcc
Subject character references for Jay Miller

Hi Joyce,

My name is Stacy Simons, and I am a friend of Jay Miller. He has asked me to contact you regarding character references for him, so here it goes...

I have known Jay for about 9 years, and have always known him to be a kindhearted person. When he had his company, Alibris, he helped me to get a job there when I needed one.

Also, I always knew him to be a generous person, letting people stay with him when they needed a place to stay, and helping them out with a meal and a ride when they were in need.

Hope this helps!

Thanks,

Stacy Simons
415.643.9245

Exhibit F

U.S. v. Jay Miller
CR 07-00638 DLJ



courtney
<cactatts@earthlink.net>

10/03/2007 06:45 PM

Please respond to
courtney
<cactatts@earthlink.net>

To joyce_leavitt@fd.org

cc

bcc

Subject Re:Jay Miller

To Whom it may concern,

I have known Jay Miller since November of 2004.
I worked for him briefly doing odd jobs in the bookselling/
collectibles store he had on San Pablo ave. in Berkeley.
At the time I was very depressed and at Jay's recommendation and
encouragement I participated in the Arete Experience weekend intensive.
This has subsequently had a huge ongoing positive influence
in my life. Jay has always been a very kind and generous friend.
I have have always experienced him as being warm ,enthusiastic,
upbeat and a devoted father.

I had lost touch with him when he was traveling and
looked forward to reconnecting.I can honestly say that I am truly
grateful for the part Jay has played in my life.
I am disheartened to hear of his troubles and hope that
they are resolved as soon as possible.

Respectfully,
Courtney Coleman

Exhibit G

U.S. v. Jay Miller
CR 07-00638 DLJ

1 BARRY J. PORTMAN
Federal Public Defender
2 JOYCE LEAVITT
Assistant Federal Public Defender
3 1301 Clay Street, Room 200C
Oakland, CA 94612-5204
4 Telephone: (510) 637-3500
5 Counsel for Defendant MILLER
6
7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)	
11)	No. CR 07-00638 DLJ
12 Plaintiff,)	
13 v.)	DECLARATION OF JOYCE LEAVITT
14 JAY MILLER,)	IN SUPPORT OF DEFENDANT'S
15 Defendant.)	SENTENCING MEMORANDUM
)	Date: March 7, 2008
)	Time: 10:00 a.m.
)	

16
17 I, Joyce Leavitt, make the following declaration under penalty of perjury:

18 1) I am an assistant federal public defender appointed to represent defendant Jay Miller in
19 the above referenced case.

20 **A. Diminished Capacity Related to Prescription Medication at the time of Offense**

21 2) In the course of investigating this case, I reviewed the notes of Dr. Jonathan Noble, M.D.,
22 who is a physician in Berkeley, California, who treated Jay Miller starting in at least December 2004
23 with the last entry in February, 2007. The notes reflect that Dr. Noble prescribed a number of
24 medications to Mr. Miller during that time period including dilatid, oxycotin, adderal, wellbutrin,
25 paxil, and ativan. The dilatid and oxycotin were prescribed for kidney stones, the adderal was
26

1 prescribed for attention deficit disorder, the wellbuterin and paxil were prescribed for depression and
2 the ativan was prescribed for anxiety. I also spoke to Mr. Miller who indicated to me that at the time
3 of the offense he was taking all of these medications.

4 3) I subsequently spoke with Dr. Pablo Stewart, M.D. who is currently a Clinical Professor
5 in the Department of Psychiatry at the University of California, San Francisco, School of Medicine to
6 ask him about the effect of the medications which Mr. Miller was taking at the time of the offense.
7 Dr. Stewart did not examine Mr. Miller and was not asked to comment on Mr. Miller's underlying
8 illnesses. Dr. Stewart indicated that dilatid and oxycotin are opiates which causes a person to feel
9 euphoric, intoxicated and detached. These medications "take the edge off" for someone who is in
10 pain. In addition, the paxil and wellbuterin, which are prescribed for depression, are stimulants
11 which can cause mania. The adderal which can be taken for attention deficit disorder is an
12 amphetamine which causes mania as well. Finally, the ativan which is taken for anxiety is a minor
13 tranquilizer.

14 4) Dr. Stewart was concerned that an individual would take all of these medications at once.
15 Together, these medications would significantly alter an individual's consciousness. However, Dr.
16 Stewart further indicated that even an individual taking only properly prescribed amounts of the anti-
17 depressants would still experience mania which would contribute to irrational judgment and
18 decision-making.

19 **B. Post-Arrest Assault at FDC and Harsh Conditions of Confinement**

20 5) Mr. Miller is currently housed at FDC-Dublin in Dublin, California. On January 8, 2008,
21 at FDC-Dublin, three inmates, who apparently were later identified as Sureno gang members,
22 demanded that Mr. Miller give them his radio and commissary items. He refused. The next day, on
23 January 9, 2008, he was assaulted by these individuals in a laundry room where Mr. Miller works as
24 an attendant. The inmates shut the door, and then proceeded to beat Mr. Miller with locks and fists
25 and kicked him with steel-toed work boots. As Mr. Miller later tried to get by one of the inmates in
26 the hall to seek help and the inmate refused, a unit officer spotted them engaged. Mr. Miller

1 subsequently lost consciousness and also suffered a seizure. He was taken to the hospital and kept
2 overnight.

3 6) At the hospital, the staff ordered two CAT scans of Mr. Miller's head. Jay Miller suffered
4 a concussion, lacerations (requiring stitches), hematomas, a deviated septum (making it difficult for
5 him to breath) and loose teeth.

6 7) On January 10, 2008, Mr. Miller was brought back to FDC-Dublin and placed in the SSU
7 also known as "the hole." Mr. Miller was told that he was being placed in the hole primarily for his
8 protection since there is no protective custody at the facility. However, it was also indicated to him
9 that he was being placed in the hole along with the others involved in the fight and that no distinction
10 was being made between the aggressors and the victim. All were being charged with assault even
11 though the three attackers suffered no injuries. No one was willing to testify about what happened
12 for fear of reprisal.

13 8) As a result of his being assaulted, Mr. Miller has been in "the hole" since January 10,
14 2008 (aside from two days). This unit is made for violent offenders under investigation or being
15 punished. This means that Mr. Miller is required to be on "lock down" 23 hours per day. His phone
16 calls and commissary are restricted. He is in a single person cell and has no contact with any other
17 inmates. Every time he has "movement," such as going to the shower, or for recreation or using the
18 phone, he is required to be in full restraints. His recreation is limited to one hour a day, five times a
19 week. His recreation consists of being placed in a cage which is 8' by 12.' In addition, he has lost 27
20 days of good time because of his involvement in the fight.

21 9) Mr. Miller has appealed the terms of his confinement and the determinations by the
22 facility but, as of this date, has not been given any relief. He has been told that there is no distinction
23 made between a victim and aggressor in sanctioning someone for being involved in a fight.

24 10) The conditions of confinement which Mr. Miller has experienced since January 8, 2008
25 which flow from his being the victim of a violent assault are extraordinarily harsh.

26 I state under penalty of perjury that the above is true and correct to the best of my knowledge.

1 Executed this 3rd day of March, 2008, in the city of Oakland, county of Alameda, state of
2 California.

3
4 
JOYCE LEAVITT

CERTIFICATE OF SERVICE BY HAND

I, MARILEE A. BARBEAU, declare:

I am a United States citizen over the age of eighteen (18) years. I am not a party to the within action.

My business address is: Office of the Federal Public Defender, 555 12th Street, Suite 650, Oakland, CA 94607-3627. On March 4, 2008, I caused to be served by hand, the following document(s):

DEFENDANT'S SENTENCING MEMORANDUM

Re: U.S. v. Jay Miller,
CR 07-00638 DLJ

by causing true copy(ies) thereof to be delivered to the following party(ies), at the following address(es):

By Hand
SCOTT N. SCHOOLS
United States Attorney
STEPHEN CORRIGAN
Assistant United States Attorney
1301 Clay Street, #340S
Oakland, California 94612
(510) 637-3724

By Hand
CHARLIE MABIE
United States Probation Officer
1301 Clay Street, Room 220S
Oakland, CA 94612

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th day of March, 2008, in the County of Alameda, City of Oakland, California.


MARILEE A. BARBEAU